

*Reg: 87-5,000 Beed 5/20/71*

WASHINGTON STATE LIQUOR CONTROL BOARD

Olympia

The Washington State Liquor Control Board by virtue of the authority vested in it under RCW 66.08.030, RCW 66.98.070, and Title 34 of RCW, after due notice in accordance with RCW 42.32.010 and Title 34 of RCW, adopted Resolution No. 22, concerning:

Rule 49 and Rule 49.5, being a portion of TITLE III.--BREWERS, BEER WHOLESALERS, BEER IMPORTERS AND HOLDERS OF CERTIFICATE OF APPROVAL (WAC 314-20-100 and WAC 314-20-105); and Rule 81 and Rule 82, being a portion of TITLE IV.--DOMESTIC WINERIES, WINE WHOLESALERS, WINE IMPORTERS, AND HOLDERS OF CERTIFICATE OF APPROVAL (WAC 314-24-190 and WAC 314-24-200).

A RESOLUTION Relating to permanent rules of the Washington State Liquor Control Board.

BE IT RESOLVED BY THE WASHINGTON STATE LIQUOR CONTROL BOARD:

Section 1. The annexed regulations, to wit:

WAC 314-20-100, 314-20-105, 314-24-190 and 314-24-200 are hereby approved and adopted as permanent rules of the Washington State Liquor Control Board.

Sec. 2. This resolution and annexed rules, after being first recorded as an administrative order in the Order Register of the Washington State Liquor Control Board, shall be forwarded to the Code Reviser for filing pursuant to RCW 34.04 and WAC 1-12-050, a copy hereof also to be filed in the office of the Secretary of State pursuant to RCW 66.08-.030 and forthwith published in pamphlets, which pamphlets shall be distributed free at all liquor stores and agencies and as otherwise directed by the Board.

Adopted this 13th day of May, 1971, to become effective July 1, 1971.



<b>DEFENDANT'S EXHIBIT</b>	
CASE NO.	C04-0360P
EXHIBIT NO.	454

(49) BEER WHOLESALE PRICE POSTING. (WAC 314-20-100)

(1) Every beer wholesaler shall file with the board at its office in Olympia a price posting showing the delivered wholesale prices at which any and all brands of beer sold by such beer wholesaler shall be sold to retailers within the state.

(2) No price posting shall become effective until fifteen days after the actual filing thereof with the board. In the event a price posting is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting.

(3) Each price posting shall be made on a form prepared and furnished by the board and shall set forth:

(a) All brands, types, packages and containers of beer offered for sale by such beer wholesaler.

(b) The delivered wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(4) No beer wholesaler shall sell or offer to sell any package or container of beer to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer wholesaler and then in effect.

(5) Prices posted by a beer wholesaler shall be consistent as between the various packages and containers offered for sale.

(6) No beer wholesaler shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be posted which is below "cost," or below "cost of doing business," or a "loss leader," as those terms are defined in Regulation (124)(4). No beer wholesaler shall initiate or be a party to any disruptive pricing practices.

(7) Wholesale prices on a "close-out" item shall be accepted by the board only if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a close-out price shall not restock the item for a period of one year following the first effective date of such close-out price. The wholesale price on such item shall be deemed acceptable only if it is in compliance with the provisions of Regulation (124)(4).

(8) If an existing written contract or memorandum of oral agreement between a licensed brewer, certificate of approval holder, beer importer or beer wholesaler and a beer wholesaler, on file in accordance with Regulation (49.5), is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another beer wholesaler in the affected trade area, the board, after receiving such new contract or memorandum of oral agreement and a corresponding wholesale price posting from the newly-designated beer wholesaler, may put such filings into effect immediately. PROVIDED, That prices and other conditions of such filings which are in effect at the time of such termination shall not be changed until subsequent filings are submitted to the board and become effective under regulatory procedures set forth in other subsections of this regulation and Regulation (49.5).

(9) The board may reject any price posting which it deems to be in violation of this or any other regulation or portion thereof which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any posting the licensee submitting said posting may be heard

by the board and shall have the burden of showing that said posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said posting is accepted it shall become effective at the time fixed by the board. If said posting is rejected, the last effective posting shall remain in effect until such time as an amended posting is filed and approved, in accordance with the provisions of this regulation.

(10) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not within any sense be considered confidential.

#### (49.5) BEER SUPPLIERS' PRICE FILINGS, CONTRACTS AND MEMORANDA (WAC 314-20-105)

(1) Every licensed brewer shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewer may have with any beer wholesaler, which contracts or memoranda shall contain a schedule of prices charged to wholesalers for all items, all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances and incentive programs; all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised contracts or memoranda shall forthwith be filed with the board as provided in this regulation.

(2) No contract or memorandum of oral agreement shall become effective until fifteen days after the actual filing thereof with the board. In the event a contract or memorandum of oral agreement is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting.

(a) An exception is set forth in subsection (8) of Regulation (49) which provides for a change in wholesalers.

(3) Prices filed by a licensed brewer shall be uniform to all wholesalers on a statewide basis less bona fide allowances for freight differentials and shall be consistent as between the various packages and containers offered for sale to beer wholesalers. No licensed brewer shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124)(4). No licensed brewer shall initiate or be a party to any disruptive pricing practices.

(4) No licensed brewer shall sell or offer to sell any beer to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(5) No licensed brewer shall sell or offer to sell any package or container of beer to any wholesaler at a price differing from the price for such package or container as shown in the schedule of prices filed by the brewer and then in effect.

(6) The provisions set forth in the foregoing subsections of this regulation shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by every certificate of approval holder who sells beer to a beer importer, every beer importer who sells beer to another beer importer or to a beer wholesaler, and every beer wholesaler who sells beer to another beer wholesaler.

(7) Holders of certificates of approval may ship beer into this state when the beer has been sold and consigned to the holder of a beer importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the beer diverted unless such diversion is to another beer importer, and the board so notified immediately.

(8) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any such price filing, contract or memorandum the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected, the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(9) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

#### (81) WINE WHOLESALE PRICE POSTING (WAC 314-24-190)

(1) Every wine wholesaler shall file with the board at its office in Olympia a wine price posting, showing the delivered wholesale prices at which any and all brands of wine offered for sale by such wine wholesaler shall be sold to retailers within the state.

(2) All price postings must be received by the board not later than the fifteenth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of a price posting, to correct errors, omissions, or to make normal price changes, but a revised posting must be on file at the board office by not later than the twentieth day of the month in order to become effective on the first day of the next calendar month.

(3) Filing Date Exception--Whenever the fifteenth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a wine wholesaler determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

(5) Postings shall be submitted upon forms prescribed and furnished by the board, and shall set forth:

(a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such wine wholesaler, which packages or containers shall be limited to the sizes permitted in Regulation (66).

until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.

All price postings filed as required by this regulation shall at all times be open to inspection by all trade buyers within the state of Washington and shall not in any sense be considered confidential.

(32) WINE SUPPLIERS' PRICE FILINGS, CONTRACTS AND MEMORANDA (WAC 314-24-200)

(1) Every domestic winery shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such winery may have with any wine wholesaler, which contracts or memoranda shall contain a schedule of the prices charged to wholesalers for all items, which prices shall include the state wine gallonage tax imposed under RCW 66.24.210, and all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances; and all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised contracts or memoranda shall be filed with the board, as provided in this regulation.

(2) Filing Date--All written contracts and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to make normal price changes, but a revised contract or memorandum of oral agreement must be on file with the board not later than the first day of the month in order to become effective on the first day of the next calendar month.

(3) Filing Date Exception--Whenever the twenty-fifth day of any month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) Exceptions for changes in wholesalers and newly licensed wholesalers are set forth in subsections (10) and (11) in Regulation (61).

(5) In the event that a domestic winery determines to make no changes in any contracts or memoranda last filed and then in effect, such contracts or memoranda shall remain in effect for each succeeding calendar month until revised or amended contracts or memoranda are filed and placed into effect as provided herein.

(6) Prices filed by a domestic winery shall be uniform prices to all wholesalers on a statewide basis less bona fide allowances for freight differentials and shall be consistent as between the various packages and containers offered for sale to wine wholesalers. No domestic winery shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124) (4). No domestic winery shall initiate or be a party to any disruptive pricing practices.

(7) The provisions set forth in subsections (1), (2), (3), (4), (5) and (6) shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by certificate of approval holders who sell wine to wine importers; wine importers who sell to wine wholesalers; and wine wholesalers who sell to other wine wholesalers.

(b) The delivered wholesale prices thereof within the state, which prices shall include the state wine gallonage tax imposed under RCW 66.24.210, and allowances, if any, for returned empty packages or containers. Such posted prices shall not include the sales tax levied under RCW 82.08.150, which must be collected by the wine wholesaler and remitted directly to the state department of revenue.

(6) No wine wholesaler shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.

(7) Prices posted by a wine wholesaler shall be consistent as between the various packages and containers offered for sale.

(8) No wine wholesaler shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be posted which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124) (4). No wine wholesaler shall initiate or be a party to any disruptive pricing practices.

(9) Wholesale prices on a "close-out" item shall be accepted by the board only if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a "close-out" price shall not restock the item for a period of one year following the first effective date of such "close-out" price. The wholesale price on such an item shall be deemed acceptable only if it is in compliance with the provisions of Regulation (124) (4).

(10) If an existing written contract or memorandum of oral agreement between a domestic winery, certificate of approval holder, wine importer, or wine wholesaler and a wine wholesaler, as filed in accordance with Regulation (82), is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another wine wholesaler in the affected trade area, the board, after receiving such new written contract or memorandum of oral agreement, and a corresponding wholesale price posting from the newly-designated wine wholesaler, may put such filings into effect immediately; PROVIDED, that prices and other conditions of any such filings which are in effect at the time of such termination shall not be changed prior to the next applicable filing period.

(11) When a new wine wholesaler's license is issued for the first time by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with Regulation (82).

(12) The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect

(8) No domestic wineries, certificate of approval holders, wine importers, or wine wholesalers shall sell any wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(9) Certificate of approval holders may ship wine into this state when the same has been sold and consigned to the holder of an importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the wine diverted unless such diversion is to another importer, and the board so notified immediately.

(10) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any such price filing, contract or memorandum of oral agreement the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(11) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

*Pay: 87-5000 Rec'd 5/20/71*

# WASHINGTON STATE LIQUOR CONTROL BOARD

Olympia

The Washington State Liquor Control Board by virtue of the authority vested in it under RCW 66.08.030, RCW 66.98.070, and Title 34 of RCW, after due notice in accordance with RCW 42.32.010 and Title 34 of RCW, adopted Resolution No. 22, concerning:

Rule 49 and Rule 49.5, being a portion of TITLE III--BREWERS, BEER WHOLESALESALE, BEER IMPORTERS AND HOLDERS OF CERTIFICATE OF APPROVAL (WAC 314-20-100 and WAC 314-20-105); and Rule 81 and Rule 82, being a portion of TITLE IV--DOMESTIC WINERIES, WINE WHOLESALESALE, WINE IMPORTERS, AND HOLDERS OF CERTIFICATE OF APPROVAL (WAC 314-24-190 and WAC 314-24-200).

A RESOLUTION Relating to permanent rules of the Washington State Liquor Control Board.

BE IT RESOLVED BY THE WASHINGTON STATE LIQUOR CONTROL BOARD:

Section 1. The annexed regulations, to wit:

WAC 314-20-100, 314-20-105, 314-24-190 and 314-24-200 are hereby approved and adopted as permanent rules of the Washington State Liquor Control Board.

Sec. 2. This resolution and annexed rules, after being first recorded as an administrative order in the Order Register of the Washington State Liquor Control Board, shall be forwarded to the Code Reviser for filing pursuant to RCW 34.04 and WAC 1-12-050, a copy hereof also to be filed in the office of the Secretary of State pursuant to RCW 66.08-.030 and forthwith published in pamphlets, which pamphlets shall be distributed free at all liquor stores and agencies and as otherwise directed by the Board.

Adopted this 13th day of May, 1971, to become effective July 1, 1971.



# WASHINGTON STATE LIQUOR CONTROL BOARD

## LIQUOR LAWS (Change and/or Inserts)

## INTERNAL DISTRIBUTION - Board Offices

Distribution of: RESOLUTION #22 (Changes, Rules 49, Title 49.5, 81 & 82.) Date: Ran 5,000, Req. 87 - 5-18-71

### DIVISION

### NO. DISTRIBUTED (AND/OR MAILED) - 5-20-71

Accounting	5
Administration:	
2 each Board Member	6
Reception Desk	10
Personnel Section	4
Marion Wright	1
M. O. Books (Approximate)	1000 + 2,034 = 3,034 books on hand.
Katie Jacox	10
Beer & Wine	10
Hearing	4
Legal	25
License	50
Purchasing	5
Retail Inspection (c/o Dorothy)	75
Mail: 2 Each Store	114
2 Each Agency	161
1 Each - Bischoff & Wakeling	2
Westford & Guile (S & A Security Branch)	2
Schade (S & A Division)	5
Enforcement (Seattle)	25
Warehouse (c/o O'Hara)	6
Field Accountants (1 Each)	10
Total	1,691 + 2,034 books ----- 3,725 tot.

Other, (as directed) mailing, 1st class rate, May 20, 1971:

Beer & Wine Importers	(Classes G-L)	81
Wholesalers	(Classes E-K)	49
Domestic Wineries	(Classes C-D)	8
Washington State Brewers	(Class B)	5
Out-of-State Wineries	(Class M)	40
Out-of-State Breweries	(Class F)	25
General Mailing List		31
Total		239----- 239

Regular Mailing List for Liquor Laws (S.N. 379, revised)-----	917
Grand Total-----	4,881
Extra copies---	119
Total Ordered-----	5,000

cc: Arthur F. Mickey, Asst. Atty. General  
 Jack C. Hood, Chairman  
 Leroy M. Hittle, Board Member  
 Don Eldridge, Board Member  
 Bob Hilson, Beer & Wine  
 Art Briggs, Supply Officer; Print file copy

[S.N. 379-A; 12-14-70; 25]

Resolution 22 file copy

Resp to Costco RFP  
 2075

*Resolution 22*

*5-19-71*  
*April 22, 1971*

to: Arthur F. Mickey, Assistant Attorney General

*Mailed 5/20/71*

General Mailing List --- Regulation Changes---Rule 49 & Rule 81 mailing

Mr. Sydney A. Abrams  
Post Office Box 223  
Mercer Island, Washington 98040

Alcohol Problems Association  
5131 Arcade Building  
Seattle, Washington 98101  
Attn: Leon W. Hawley, Executive Director

Allied Daily Newspapers of Washington  
18740 Pacific Highway South  
Seattle, Washington 98188  
Attn: Paul Conrad, Secretary-Manager

Association of Washington Cities  
4719 Brooklyn Avenue N.E.  
Seattle, Washington 98105  
Attn: Chester Blesen, Executive Director

The Bartenders Union, Local 711  
738 Pacific Avenue South  
Tacoma, Washington 98402

California Wine Institute  
717 Market Street  
San Francisco, California 94103  
Attn: Jack T. Matthews, Assistant Gen. Mgr.

Commerce Clearing House, Inc.  
Market Report  
Liquor Control Law  
4025 West Peterson Avenue  
Chicago, Illinois 60646

Control State Review  
c/o Schwartz Publishers, Inc.  
6 West 57th Street  
New York, New York 10019

Distilled Spirits Institute, Inc.  
8444 S.W. Ernst Road  
Portland, Oregon 97225  
Attn: Maurice E. Druhl, Regional Director

Hotel-Restaurant Employees & Bartenders  
International Union, Local No. 61  
1130 Commerce Street  
Tacoma, Washington 98402

~~King County Treasurer  
County City Building  
Seattle, Washington 98104  
Attn: Mr. H. J. R. Williams~~

Pebbles, Swanson & Lindskog  
Attorneys-at-law  
202-212 Security Building  
Olympia, Washington 98501

The Restaurant Association of the  
State of Washington, Inc.  
220 Securities Building  
Seattle, Washington 98101  
Attn: John F. Gordon, Executive Secretary

Washington Vine & Grape Growers Council  
4447 West Mercer Way  
Mercer Island, Washington 98040  
Attn: Mr. Ivan F. Kearns

NEWSPAPERS:

Associated Press (Campus)  
Legislative Building  
Olympia, Washington 98501

Mr. Lyle Burt, Seattle Times (Campus)  
c/o United Press International  
Legislative Building  
Olympia, Washington 98501

Mr. Robert Cummings (Campus)  
Tacoma News Tribune  
Legislative Building  
Olympia, Washington 98501

Mr. Clayton Fox (Campus)  
Daily Olympian  
c/o Associated Press  
Legislative Building  
Olympia, Washington 98501

Mr. Mike Layton (Campus)  
Seattle Post Intelligencer  
c/o Associated Press  
Legislative Building  
Olympia, Washington 98501

United Press International (Campus)  
Legislative Building  
Olympia, Washington 98501

Mr. Jay Van Dyke (Campus)  
Capitol News Network  
Legislative Building  
Olympia, Washington 98501

April 22, 1971

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Washington Brewers Institute  
510 - 1411 Fourth Avenue Building  
Seattle, Washington 98101  
Attn: Ronald A. Murphy, Secretary-Counsel

Washington Beer & Wine Wholesalers Assn., Inc.  
1006 Securities Building  
Seattle, Washington 98101  
Attn: J. W. Huddleson, Executive Secretary

Washington Food Dealers Association  
416 Lloyd Building  
603 Stewart  
Seattle, Washington 98101  
Attn: F. N. McCowan, Executive Director

Washington Newspaper Publishers Association  
3838 Stoneway North  
Seattle, Washington 98103  
Attn: Jerry Zubrod, Manager

Washington State Association of Broadcasters  
1010 - 1411 Fourth Avenue Building  
Seattle, Washington 98101  
Attn: James A. Murphy  
Executive Vice President & Counsel

Washington State Association of (Campus)  
~~County Commissioners~~ *Counties*  
106 Maple Park  
Olympia, Washington 98501  
Attn: John L. Chambers, Executive Secretary

Washington State Association of (Campus)  
Elected County Officials  
Capitol Park Building, Room 205  
1063 Capitol Way  
Olympia, Washington 98501  
Attn: Lyle Watson, Executive Secretary

Washington State Department of (Campus)  
Social & Health Services  
Division of Health  
Airport Complex - Clearwater Lane  
Olympia, Washington 98501

VEH:md

cc: Jack C. Hood, Chairman  
Leroy M. Hittle, Board Member  
Don Eldridge, Board Member  
Art Briggs  
Main Office Staff

Washington State Federation of Clubs  
1703 Dexter Avenue North  
Seattle, Washington 98109  
Attn: Floyd Buchanan, Executive Secretary

Washington State Legislative Council  
Legislative Building  
Olympia, Washington 98501 (Campus)

Washington State Licensed Beverage  
Association  
17520 - 15th N.E.  
Seattle, Washington 98155  
Attn: Jacob H. Miller, Executive Secretary



Olympia, Washington  
May 13, 1971

Received from the Washington State  
Liquor Control Board for filing:

The attached Resolution No. 22, with annexed  
regulations, to wit:

WAC 314-20-100, 314-20-105, 314-24-190 and  
314-24-200,

adopted by the Washington State Liquor Control Board  
on May 13, 1971, to become effective July 1, 1971.

A. LUDLOW KRAMER  
Secretary of State

By *R. L. Lyle*

TRANSMITTAL OF RULES ADOPTED

FROM: Washington State Liquor Control Board  
(Name of Agency)

TO: CODE REVISER  
LEGISLATIVE BLDG (Southwest Corner, Ground Floor)  
Olympia 98501

The enclosed Permanent rules ☒ , being order No. 15  
Emergency rules ☐

relating to (Name of rules or description of subject matter)  
Rule 49 BEER PRICE POSTING, being a portion of TITLE IV.--BREWERS, BEER  
WHOLESALEERS, BEER IMPORTERS AND HOLDERS OF CERTIFICATE OF APPROVAL (WAC  
314-20-100), divided into two rules entitled Rule 49 BEER WHOLESALE PRICE  
POSTING (WAC 314-20-100) and Rule 49.5 BEER SUPPLIERS' PRICE FILINGS, CON-  
TRACTS AND MEMORANDA (WAC 314-20-105).  
Rule 81 WINE WHOLESALE PRICE POSTING and Rule 82 WINE SUPPLIERS' PRICE  
FILINGS, CONTRACTS AND MEMORANDA, being a portion of TITLE IV.--DOMESTIC  
WINERIES, WINE WHOLESALEERS, WINE IMPORTERS, AND HOLDERS OF CERTIFICATE OF  
APPROVAL (WAC 314-24-190 and WAC 314-24-200).

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 2999 <sup>①</sup> filed with the code reviser  
on 4-22-71 <sup>②</sup> were regularly adopted as permanent rules of this  
(date)  
agency at Olympia, Washington on 5-13-71 and are herewith  
(place) (date)  
filed in the office of the code reviser pursuant to chapter 34.04  
RCW. The effective date of such rules shall be 7-1-71 <sup>③</sup>

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding that the immediate adoption of  
these rules is necessary for the preservation of the public  
health, safety, or general welfare and that observance of the  
requirements of notice and opportunity to present views on  
the proposed action would be contrary to the public interest,  
were regularly adopted as emergency rules of this agency at  
(place) on (date) and are herewith filed in  
the office of the code reviser pursuant to chapter 34.04 RCW.

Dated this 13th day of May 1971.

STATE OF WASHINGTON  
**FILED**  
MAY 13 1971  
CODE REVISER'S OFFICE  
CHECK # FILE #

Washington State Liquor Control Board  
(AGENCY)

By [Signature]

Title Chairman

- ① NOTICE NUMBER AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY RE-  
VISER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE NO. OF LAST NOTICE)  
② STAMPED DATE AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY REVIS-  
ER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE DATE OF LAST NOTICE)  
③ UNLESS A LATER DATE IS SPECIFIED IN THIS ORDER OR IS PRESCRIBED  
IN ANOTHER STATUTE, RULES ARE EFFECTIVE 30 DAYS AFTER FILING.  
RCW 34.04.040. LEAVE THIS SPACE BLANK EXCEPT IN SUCH SPECIAL CASES.

Form Adopted 12/11/67. Effective 1/17/68

(Form CA-2)

WASHINGTON STATE LIQUOR CONTROL BOARD

RESOLUTION NO. 22

Administrative Order No. 15  
LCB Order Register (WAC 1-12-040)

A RESOLUTION Relating to permanent rules of the Washington State Liquor Control Board.

BE IT RESOLVED BY THE WASHINGTON STATE LIQUOR CONTROL BOARD:


Section 1. The annexed regulations, to wit:

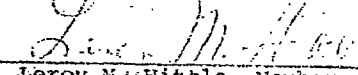
WAC 314-20-100, 314-20-105, 314-24-190 and 314-24-200  
are hereby approved and adopted as permanent rules of the  
Washington State Liquor Control Board, effective July 1, 1971.

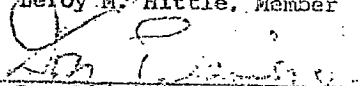
Sec. 2. This resolution and annexed rules, after being  
first recorded as an administrative order in the Order Regis-  
ter of the Washington State Liquor Control Board, shall be  
forwarded to the Code Reviser for filing pursuant to RCW 34.04  
and WAC 1-12-050, a copy hereof also to be filed in the office  
of the Secretary of State pursuant to RCW 56.08.030 and forth-  
with published in pamphlets, which pamphlets shall be distrib-  
uted free at all liquor stores and agencies and as otherwise  
directed by the Board.

Dated this 13th day of May, 1971.

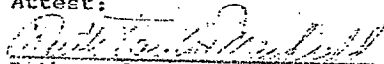
WASHINGTON STATE LIQUOR CONTROL BOARD

  
Jack C. Hood, Chairman

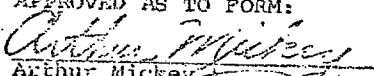
  
Leroy M. Hittle, Member

  
Don Eldridge, Member

Attest:

  
Ruth Taylor Mayfield, Secy.

APPROVED AS TO FORM:

  
Arthur Mickey  
Assistant Attorney General

AMD

WAC 314-20-100 BEER WHOLESALE PRICE POSTING. (1) Every beer wholesaler shall file with the board at its office in Olympia a price posting showing the delivered wholesale prices at which any and all brands of beer sold by such beer wholesaler shall be sold to retailers within the state.

(2) No price posting shall become effective until fifteen days after the actual filing thereof with the board. In the event a price posting is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting.

(3) Each price posting shall be made on a form prepared and furnished by the board and shall set forth:

(a) All brands, types, packages and containers of beer offered for sale by such beer wholesaler.

(b) The delivered wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(4) No beer wholesaler shall sell or offer to sell any package or container of beer to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer wholesaler and then in effect.

(5) Prices posted by a beer wholesaler shall be consistent as between the various packages and containers offered for sale.

(6) No beer wholesaler shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be posted which is below "cost," or below "cost of doing business," or a "loss leader," as those terms are defined in Regulation (124)(4). No beer wholesaler shall initiate or be a party to any disruptive pricing practices.

(7) Wholesale prices on a "close-out" item shall be accepted by the board only if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a close-out price shall not restock the item for a period of one year following the first effective date of such close-out price. The wholesale price on such item shall be deemed acceptable only if it is in compliance with the provisions of Regulation (124)(4).

(8) If an existing written contract or memorandum of oral agreement between a licensed brewer, certificate of approval holder, beer importer or beer wholesaler and a beer wholesaler, on file in accordance with Regulation (49.5), is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another beer wholesaler in the affected trade area, the board, after receiving such new contract or memorandum of oral agreement and a corresponding wholesale price posting from the newly-designated beer wholesaler, may put such filings into effect immediately: PROVIDED, That prices and other conditions of such filings which are in effect at the time of such termination shall not be changed until subsequent filings are submitted to the board and become effective under regulatory procedures set forth in other subsections of this regulation and Regulation (49.5).

(9) The board may reject any price posting which it deems to be in violation of this or any other regulation or portion thereof which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any posting the licensee submitting said posting may be heard

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by the board and shall have the burden of showing that said posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said posting is accepted it shall become effective at the time fixed by the board. If said posting is rejected, the last effective posting shall remain in effect until such time as an amended posting is filed and approved, in accordance with the provisions of this regulation.

(10) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not within any sense be considered confidential.

X NEW

WAC 314-20-105 BEER SUPPLIERS' PRICE FILINGS, CONTRACTS AND MEMORANDA. (1) Every licensed brewer shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewer may have with any beer wholesaler, which contracts or memoranda shall contain a schedule of prices charged to wholesalers for all items, all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances and incentive programs; all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified, such revised contracts or memoranda shall forthwith be filed with the board as provided in this regulation.

(2) No contract or memorandum of oral agreement shall become effective until fifteen days after the actual filing thereof with the board. In the event a contract or memorandum of oral agreement is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting.

(a) An exception is set forth in subsection (8) of Regulation (49) which provides for a change in wholesalers.

(3) Prices filed by a licensed brewer shall be uniform prices to all wholesalers on a statewide basis less bona fide allowances for freight differentials and shall be consistent as between the various packages and containers offered for sale to beer wholesalers. No licensed brewer shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124)(4). No licensed brewer shall initiate or be a party to any disruptive pricing practices.

(4) No licensed brewer shall sell or offer to sell any beer to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(5) No licensed brewer shall sell or offer to sell any package or container of beer to any wholesaler at a price differing from the price for such package or container as shown in the schedule of prices filed by the brewer and then in effect.

(6) The provisions set forth in the foregoing subsections of this regulation shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by every certificate of approval holder who sells beer to a beer importer, every beer importer who sells beer to another beer importer or to a beer wholesaler, and every beer wholesaler who sells beer to another beer wholesaler.

(7) Holders of certificates of approval may ship beer into this state when the beer has been sold and consigned to the holder of a beer importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the beer diverted unless such diversion is to another beer importer, and the board so notified immediately.

(8) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any such price filing, contract or memorandum the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected, the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(9) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

AMD

WAC 314-24-190 WINE WHOLESALE PRICE POSTING. (1) Every wine wholesaler shall file with the board at its office in Olympia a wine price posting, showing the delivered wholesale prices at which any and all brands of wine offered for sale by such wine wholesaler shall be sold to retailers within the state.

(2) All price postings must be received by the board not later than the fifteenth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of a price posting, to correct errors, omissions, or to make normal price changes, but a revised posting must be on file at the board office by not later than the twentieth day of the month in order to become effective on the first day of the next calendar month.

(3) Filing Date Exception--Whenever the fifteenth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a wine wholesaler determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

(5) Postings shall be submitted upon forms prescribed and furnished by the board, and shall set forth:

(a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such wine wholesaler, which packages or containers shall be limited to the sizes permitted in Regulation (66).

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(b) The delivered wholesale prices thereof within the state, which prices shall include the state wine gallonage tax imposed under RCW 66.24.210, and allowances, if any, for returned empty packages or containers. Such posted prices shall not include the sales tax levied under RCW 82.08.150, which must be collected by the wine wholesaler and remitted directly to the state department of revenue.

(6) No wine wholesaler shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.

(7) Prices posted by a wine wholesaler shall be consistent as between the various packages and containers offered for sale.

(8) No wine wholesaler shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be posted which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124)(4). No wine wholesaler shall initiate or be a party to any disruptive pricing practices.

(9) Wholesale prices on a "close-out" item shall be accepted by the board only if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a "close-out" price shall not restock the item for a period of one year following the first effective date of such "close-out" price. The wholesale price on such an item shall be deemed acceptable only if it is in compliance with the provisions of Regulation (124)(4).

(10) If an existing written contract or memorandum of oral agreement between a domestic winery, certificate of approval holder, wine importer, or wine wholesaler and a wine wholesaler, as filed in accordance with Regulation (82), is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another wine wholesaler in the affected trade area, the board, after receiving such new written contract or memorandum of oral agreement, and a corresponding wholesale price posting from the newly-designated wine wholesaler, may put such filings into effect immediately; PROVIDED, That prices and other conditions of any such filings which are in effect at the time of such termination shall not be changed prior to the next applicable filing period.

(11) When a new wine wholesaler's license is issued for the first time by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with Regulation (82).

(12) The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect

until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.

All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

AMD

**WAC 314-24-200 WINE SUPPLIERS' PRICE FILINGS, CONTRACTS AND MEMORANDA.** (1) Every domestic winery shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such winery may have with any wine wholesaler, which contracts or memoranda shall contain a schedule of the prices charged to wholesalers for all items, which prices shall include the state wine gallonage tax imposed under RCW 66.24.210, and all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances; and all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised contracts or memoranda shall be filed with the board, as provided in this regulation.

(2) Filing Date--All written contracts and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to make normal price changes, but a revised contract or memorandum of oral agreement must be on file with the board not later than the first day of the month in order to become effective on the first day of the next calendar month.

(3) Filing Date Exception--Whenever the twenty-fifth day of any month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) Exceptions for changes in wholesalers and newly licensed wholesalers are set forth in subsections (10) and (11) in Regulation (81).

(5) In the event that a domestic winery determines to make no changes in any contracts or memoranda last filed and then in effect, such contracts or memoranda shall remain in effect for each succeeding calendar month until revised or amended contracts or memoranda are filed and placed into effect as provided herein.

(6) Prices filed by a domestic winery shall be uniform prices to all wholesalers on a statewide basis less bona fide allowances for freight differentials and shall be consistent as between the various packages and containers offered for sale to wine wholesalers. No domestic winery shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124).

(4). No domestic winery shall initiate or be a party to any disruptive pricing practices.

(7) The provisions set forth in subsections (1), (2), (3), (4), (5) and (6) shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by certificate of approval holders who sell wine to wine importers; wine importers who sell to wine wholesalers; and wine wholesalers who sell to other wine wholesalers.

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(8) No domestic wineries, certificate of approval holders, wine importers, or wine wholesalers shall sell any wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(9) Certificate of approval holders may ship wine into this state when the same has been sold and consigned to the holder of an importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the wine diverted unless such diversion is to another importer, and the board so notified immediately.

(10) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any such price filing, contract or memorandum of oral agreement the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(11) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

OFFICE OF THE WASHINGTON STATE LIQUOR CONTROL BOARD

May 13, 1971

The Washington State Liquor Control Board met in regular session. Minutes of previous meeting were read and approved.

Pursuant to notice filed with the Code Reviser on April 22, 1971, Chairman Jack C. Hood and Board Members Leroy M. Hittle and Don Eldridge, together with staff members Arthur F. Mickey, Assistant Attorney General, and John (Bob) Hilson, Beer and Wine Division Supervisor, convened at 9:00 a.m. to meet in the Board's office in Olympia at a meeting open to the public to consider the adoption of amended Rule 49, new Rule 49.5, and amended Rules 81 and 82.

Also present at the meeting were the following persons:

Arthur J. Eeckhout, State Distributing Co., Olympia;  
F. N. McCowan, Washington Food Dealers Association, Seattle;  
Mr. B. Robertson, Lang Distributors, Seattle;  
Ken Bennett, Totem Beverages, Renton;  
Ralph Klemmer, K & L Distributors, Bellevue;  
Ronald Murphy, Washington Brewers Institute, Seattle;  
John Huddleson, Washington Beer & Wine Wholesalers Association, Inc., Seattle;  
Harris Miller, United Vintners, Seattle;  
Tom Lashley, Italian Swiss Colony, Olympia;  
Norman Wilcox, Italian Swiss Colony, Bellevue;  
Bob Jennings, Jennings Corporation, Bremerton.

Pursuant to its notice filed with the Code Reviser, the Board considered all written material submitted to it prior to May 13, 1971, and orally from all interested persons present who wished to speak for or against the proposed rule changes.

Mr. John Huddleson stated that the Washington Beer and Wine Wholesalers Association, Inc., were in favor of the proposals. Mr. Ronald Murphy, Counsel on behalf of the Washington Brewers Institute, Inc., submitted the attached "Statement of Washington Brewers Institute, Inc.," suggesting language be added to subsection (3) of new Rule 49.5 for clarification. Mr. Huddleson and Mr. Jennings said they were in concurrence with accepting the additional language in subsection (3) of new Rule 49.5 and inserting comparable language in amended subsection 6 of Rule 82.

Mr. McCowan stated that he had no particular comment on behalf of the Washington Food Dealers Association, but that some grocers were having price wars, and would want the aforementioned additional language in Rule 82, subsection (6) as well as in Rule 49.5, subsection (3). Supervisor Hilson explained that the rules prohibited quantity discounts and loss leaders and that

disruptive pricing practices would not be permitted.

Board Member Hittle moved that subsection (3) of proposed new rule 49.5 be amended to read as follows:

"Prices filed by a licensed brewer shall be uniform prices to all wholesalers on a statewide basis less a slide allowances for freight differentials and shall be consistent as between the various packages and containers offered for sale to beer wholesalers. No licensee shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124)(4). No licensee shall initiate or be a party to any disruptive pricing practices."

The motion was seconded by Board Member Eldridge and carried unanimously.

Board Member Hittle moved that subsection (6) of proposed amended Rule (82) be amended to read as follows:

"Prices filed by a domestic winery shall be uniform prices to all wholesalers on a statewide basis less a slide allowances for freight differentials and shall be consistent as between the various packages and containers offered for sale to wine wholesalers. No domestic winery shall file a price on any item which, in fact, constitutes a "post off." Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124)(4). No domestic winery shall initiate or be a party to any disruptive pricing practices."

The motion was seconded by Board Member Eldridge and carried unanimously.

Board Member Hittle moved that Resolution 22 with Annexed Regulations (Amended Rule 49, WAC 314-20-100; New Rule 49.5 as amended, WAC 314-20-105; Amended Rule 81, WAC 314-24-190; and Amended Rule 82 as amended, WAC 314-20-200) be approved and adopted as permanent rules of the Washington State Liquor Control Board, effective July 1, 1971. The motion was seconded by Board Member Eldridge and carried unanimously.

A copy of the transmittal, resolution and rules is attached.

The Board approved expenditure of \$945.00, estimated cost of replacement of a heavy duty industrial battery in the Barrett Tow Tractor used at the Seattle warehouse.

The Board accepted lowest of nine bids submitted by the Pacific Northwest Corporation for furnishing liquor cartons, with inside panels, manufactured by the manufacturer, for use in the repack section of the Seattle warehouse at a cost of \$1,352.05.

The Board approved a new direct connect burglar alarm for the Store No. 82, which is being converted to a self-service operation at the location.

in Des Moines, and accepted low bid submitted by Loomis Electric and Installation cost of \$902.00 for a period of 36 months, and monthly service cost of \$702.00 for 36 months.

Meeting adjourned.

Chairman

Member

Member

Attest:

Secretary

Resp to Costco RFP  
2080

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